

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 WESTERN DIVISION - LOS ANGELES

4 UNITED STATES OF AMERICA,) Case No. 20 MJ-3039
5 Plaintiff,) Los Angeles, California
6 v.) Tuesday, July 7, 2020
7 JONATHAN WILLIAM WALL,) 1:00 P.M. to 1:27 P.M.
8 Defendant.) TELEPHONIC HEARING
9 _____)
10
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12 TRANSCRIPT OF PROCEEDINGS
13 BEFORE THE HONORABLE KAREN L. STEVENSON,
14 UNITED STATES MAGISTRATE JUDGE.

15 Appearances: See Page 2
16 Deputy Clerk: Gay Roberson
17 Court Reporter: Recorded; CourtSmart
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25 transcript produced by transcription service.

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1 LOS ANGELES, CALIFORNIA, TUESDAY, JULY 7, 2020, 1:00 P.M.

2 (Call to Order of the Court.)

3 THE CLERK: Calling Case No. 20 MJ-3039,

4 *United States of America v. Jonathan William Wall.*

5 Counsel, please state your appearances for the
6 record.

7 CHARLES FOWLER: Good afternoon, Your Honor.
8 Charles Fowler for the United States.

9 THE COURT: Good afternoon, Mr. Fowler.

10 JAMES A. BUSTAMANTE: Good afternoon, Your Honor.
11 James Bustamante appearing on behalf of Mr. Jonathan William
12 Wall, who's present by way of video.

13 THE COURT: Good afternoon to you, Mr. Bustamante.
14 And good afternoon to you, Mr. Wall, who is
15 appearing by video, per consent that was previously given at
16 his initial appearance, and in custody.

17 This is the time that the Court had set for the
18 continued detention hearing in this matter and an identity
19 hearing in this matter, as that was not waived -- as this is
20 an out-of-district matter and Mr. Wall did not at his initial
21 appearance waive the right to an identity hearing, but I do
22 have a document signed on the 2nd, a waiver of identity
23 hearing.

24 Is that correct, Mr. Bustamante?

25 MR. BUSTAMANTE: That is correct, Your Honor. I

1 did go through that with Mr. Wall.

2 THE COURT: All right.

3 Good afternoon to you, Mr. Wall. I just want to
4 confirm that you had a chance to go over the waiver of the
5 right to an identity hearing with your counsel,
6 Mr. Bustamante; is that right?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And you did have an opportunity to
9 consider what the consequences and implications were of
10 giving up that right; is that correct?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And it is your desire to give up your
13 right to have an identity hearing in this district in this
14 matter that originates out of the District Court of Maryland;
15 is that correct?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. Then the Court finds that
18 your waiver of right to an identity hearing is knowing,
19 willingly, and voluntarily given.

20 Is the Government prepared to proceed with a
21 detention hearing today?

22 MR. FOWLER: Yes, Your Honor.

23 THE COURT: And, Mr. Fowler, is the Government
24 still seeking detention in this matter?

25 MR. FOWLER: Yes, Your Honor, the Government is

1 seeking detention.

2 THE COURT: All right.

3 Mr. Bustamante, is the defense prepared to go
4 forward with a detention hearing this afternoon?

5 MR. BUSTAMANTE: We are, Your Honor.

6 THE COURT: All right.

7 Let me double-check because I do believe, based on
8 the charges out of the District of Maryland, this is a
9 presumption case. Is that correct, Mr. Fowler?

10 MR. FOWLER: Yes, Your Honor. It's a (b) (1) (A)
11 quantity under Title 21, and it is a presumption case as a
12 result.

13 THE COURT: All right. In that instance, because
14 the Government has the presumption -- a rebuttal presumption,
15 I'm going to allow the defense to argue first and addressing
16 any risk of nonappearance and danger posed by Mr. Wall.

17 Mr. Bustamante, you may proceed.

18 MR. BUSTAMANTE: Thank you very much, Your Honor.

19 I want to start off by saying that the
20 Pretrial Services officer did a relatively thorough report.
21 So I'm going to do my best not to repeat anything that's
22 indicated in the report and -- but there are some important
23 factors that I do want to highlight and make sure that the
24 record is clear to clarify the circumstances under which
25 Mr. Wall found himself self-surrendering on the warrant from

1 Baltimore, Maryland, last Monday, which I believe was the
2 31st.

3 MR. FOWLER: 29th.

4 MR. BUSTAMANTE: 29th -- whatever day last Monday
5 was, Your Honor.

6 So, Your Honor, I was involved with Mr. Wall when
7 this case first started last summer in Baltimore, Maryland.
8 I had traveled -- I was retained by Mr. Wall, I traveled back
9 East and met the AUSA Mr. Chris Romano, and I think there
10 was, I think, eight or nine other defendants in this matter.
11 It's basically an 846, 841(a) that my client is charged with,
12 conspiracy with intent to distribute marijuana. We had an
13 understanding -- and I want to let the Court know everything
14 clearly about the chronology of events -- that Mr. Wall would
15 not be arrested and we would wait for the indictment to come
16 down and we would make our initial appearance on agreed-upon
17 date sometime in the end of the summer, beginning of fall of
18 2019.

19 I was contacted by the AUSA, Mr. Romano, and I had
20 lost contact with my client. Mr. Romano had given us a
21 couple of dates for him to appear. At one point he picked a
22 particular date. I flew back to Baltimore, Maryland. Along
23 with my local counsel, we appeared. Mr. Wall was absent. We
24 concede that. There's no dispute about that. And he --

25 THE COURT: Not only was he absent but he

1 apparently was in Guatemala for several months; is that
2 correct, Counsel?

3 MR. BUSTAMANTE: That is correct, Your Honor. He
4 was in another country, and I was going to get to that.

5 So he did not make that appearance. He was out of
6 the country in Central America, resurfaced in terms of
7 contact with me, and over many discussions we -- he finally
8 decided that he wanted to come back, face the music, so to
9 speak, and get the case rolling.

10 I was in communication with AUSA Mr. Romano and
11 advised him that I was in the process of trying to get him
12 back with that in -- I believe it was the beginning or middle
13 of March, Your Honor, where the Guatemalan airport was shut
14 down, and it was open on and off with a lot of restrictions
15 -- I've got a long memo from one of my law clerks that starts
16 off March 13th -- and finally really opens where major
17 airlines are flying out of the country on a regular basis at
18 least one time a week. We got on board, and we got an
19 airline ticket for Mr. Wall. I communicated as soon as I
20 confirmed, your Honor, that Mr. Wall was on the plane and
21 en route to self-surrender. I had told Mr. Romano that that
22 was -- my efforts were to get him back into their
23 jurisdiction and put this case behind him.

24 He's 25 years old. No criminal history. There
25 were some other reasons why he made the poor choice of

1 leaving. He believed that at some point there may have been
2 some people looking for him, and I want -- without saying
3 anything on the record, Your Honor, I'll refer the Court to a
4 particular paragraph of the Pretrial Services Report, where
5 it reflects some efforts by my client in having met with the
6 AUSA and other, I guess, previous counsel. My clerk is going
7 to try and find that for me, and I'll --

8 (Counsel confers with his clerk.)

9 THE COURT: Well, Counsel, let me be clear here --

10 MR. BUSTAMANTE: And so -- so the point --

11 THE COURT: Pardon --

12 MR. BUSTAMANTE: -- the point --

13 THE COURT: Pardon me.

14 MR. BUSTAMANTE: -- the point being that --

15 THE COURT: Pardon me, Mr. Bustamante. I want you
16 to be clear here. This Court is not litigating the merits of
17 the underlying charges out of the District of Maryland. The
18 Court is only concerned --

19 MR. BUSTAMANTE: I understand.

20 THE COURT: -- here with those factors and facts
21 that are part of the record at this juncture before this
22 Court regarding any elements in this defendant's history or
23 background that would mitigate any further risk of
24 nonappearance, as he's already not appeared for one federal
25 court proceeding, or otherwise mitigate any danger to any

1 person or the community in light of the seriousness of the
2 allegations that are lodged against him.

3 MR. BUSTAMANTE: Completely understood, Your Honor.
4 But the context is, because of my communication with
5 Mr. Romano over the last couple of days to try to reach an
6 agreement that the constant -- and of course it's one of the
7 main concerns for the Court -- is whether or not he's a
8 flight risk given his history, and I was simply trying to put
9 into context the circumstances under which he left and then
10 the circumstances of which he returned --

11 THE COURT: Understood.

12 MR. BUSTAMANTE: -- because it's important for
13 everybody to know that the whole purpose of his returning was
14 of course to self-surrender, and we gave notice to the AUSA,
15 Romano, that he was arriving on a particular flight,
16 particular time, and he's ready to be arrested, which is what
17 occurred.

18 So presently, his parents, who have been supportive
19 of Mr. Wall throughout his life, obviously, and through some
20 struggles that he had as a teen with some mental-health
21 issues and some issues with drug addiction -- they have been
22 supportive with him, and as the Pretrial Services Reports --
23 I've been in constant contact with him. They are prepared to
24 do a signature bond. The Pretrial Services Report recommends
25 25,000. If the Court thinks that it's necessary to go higher

1 than that, they're prepared to do whatever is necessary in
2 support of their son.

3 The context of what we'd like to have happen with
4 Mr. Wall is to have him returned and have his parents be
5 custodians. They live about two hours outside of Baltimore.
6 He can reside there. He can attend either outpatient or
7 inpatient treatment through a facility that we checked on.
8 It's called the Ashley -- Father Martin Ashley Treatment
9 Center. I know that Mr. Romano, the U.S. attorney back there
10 in Maryland, had checked that out. Of course, it would have
11 to be approved by Pretrial Services.

12 But what I'm trying to do, Your Honor -- and you
13 don't know me, and it's the first time that I've appeared
14 before you, but I'm not an 8:00 to 5:00 lawyer. I'm a true
15 believer in my clients, I'm a true believer in the system of
16 trying to turn people's lives around, and Mr. Wall, despite
17 this mandatory-minimum ten-year case that he's got in front
18 of him, is now prepared with some appropriate intervention,
19 which simply is to treat his addiction to ketamine, to treat
20 other anxiety issues that he has, to get his life back on
21 board so he has an exit strategy for this case that he's --
22 that's looming over his head.

23 The Government, over my conversations, has
24 repeatedly told me, "Well, Mr. Bustamante, how do we know
25 he's not going to leave again?" You know, there's no one

1 that can predict that, but the circumstances under which he
2 voluntarily self-surrendered -- and the Government had told
3 me over the last month or so "We want him to come back,
4 Mr. Bustamante, the sooner, the better," and now he's here,
5 and they're seeking detention. I can agree to disagree with
6 their position. I don't quite understand it. I do
7 understand that if he had left as a fugitive with a desire to
8 never to return and never came back and they had to go and
9 catch him by the marshals fugitive task force, I'd have more
10 of an uphill battle.

11 So I hope, Your Honor, that I'm addressing all the
12 issues that the Court needs to take into consideration.
13 There's security, and I understand that there's also a new
14 option, rather than an ankle bracelet, but there's a -- I was
15 told by Pretrial Services there's a service in your district
16 that -- I don't know if it's in Maryland or not -- where the
17 person has a face-recognition app on his phone, where he can
18 be checked on a regular basis, and it also has GPS because
19 it's attached to a phone. So, if the Court wants additional
20 conditions to address the Court's concern about flight risk,
21 there's -- I don't need to tell the Court, of course, there's
22 many options available to the Court.

23 In terms of danger to the community, he has issues
24 that revolve around his behavior that's destructive to
25 himself. It's not to society. He's -- he needs treatment.

1 He's not -- you -- the Court knows he's not going to get it
2 the Santa Ana County Jail, he's not going to get it, you
3 know, making his way from California to Baltimore, Maryland,
4 over the course of who knows how long it would take and being
5 exposed to COVID-19 along the way if he was detained.

6 I'm hoping, Your Honor, that I'm addressing all the
7 issues that the Court needs to take under consideration to
8 let him get back on track, have some consideration that he
9 did self-surrender, and he's ready to move forward.

10 THE COURT: Thank you, Mr. Bustamante.

11 MR. BUSTAMANTE: Thank you, Your Honor.

12 THE COURT: Mr. Fowler, for the Government?

13 MR. FOWLER: Yes. Thank you, Your Honor.

14 Let me just begin by making clear, you know, for
15 the record that the supplement that Pretrial provided to the
16 Court and to the parties yesterday does change its
17 recommendation from its initial report last week, which, as
18 Mr. Bustamante said, recommended release on a \$25,000
19 appearance bond. Pretrial now has concluded that no set of
20 conditions can reasonably assure the defendant's appearance,
21 and so I just -- I wanted to direct the Court to that
22 recommendation, which, of course, the Government agrees with.

23 I'll just touch briefly on danger, Your Honor. The
24 defendant is accused of a very sophisticated drug-trafficking
25 conspiracy involving over a thousand pounds -- sorry --

1 kilograms of marijuana. It's a serious offense distributing
2 illegal drugs to the community, on top of the defendant's
3 admitted drug problems, and just for those reasons, I don't
4 think the defendant has rebutted the presumption that any set
5 of conditions could reasonably assure the safety of the
6 community.

7 But obviously, the main issue in this is the flight
8 risk. It's simply undisputed that the defendant has already
9 failed to appear once when faced with the very charges that
10 he faces in this case. The Government doesn't really take
11 issue with the timeline -- the basic timeline that was laid
12 out by Mr. Bustamante, but the fact remains that, if you
13 accept the defendant's information provided to Pretrial that
14 he had been living in Guatemala for about seven months, it
15 lines up -- it essentially lines up with the time when the
16 defendant knew in late summer that he was going to be
17 indicted and that an initial appearance was going to be
18 scheduled, and the defendant fled the country so as not to
19 face these charges.

20 It's true, Your Honor, that the defendant arranged,
21 then, a self-surrender, but that's only after a number of
22 months of being a fugitive out of the country. He fled the
23 charges. He's got significant international travel. He's
24 obviously got access to resources that have allowed him to
25 travel in this way, and at the end of the day, Your Honor,

1 we're talking about an individual who, unfortunately, is
2 facing, you know, serious ten-year mandatory-minimum charges
3 as his sort of first exposure to the criminal justice system,
4 which creates sort of an obvious pressure not to want to face
5 that, which he's always demonstrated a willingness to do, and
6 so, Your Honor, the Government thinks it's, likewise, not
7 been -- not -- the defendant has not rebutted the
8 presumption, again, of a reasonable assurance that he would
9 not appear.

10 THE COURT: All right. Thank you.

11 Any further comments from defense counsel?

12 MR. BUSTAMANTE: Your Honor, I'll just add that all
13 the potential conditions available to the Court to address
14 what, I think, is probably the biggest looming concern as a
15 flight risk are all circumstances that were not available
16 back in the summer of 2019 and were not conditions and
17 considerations considered by Mr. Wall when he made the poor
18 -- the poor choice -- you know, there's no way that I'm going
19 to try to excuse that particular choice, but there has to be
20 something to be said, Your Honor, that, when the Government
21 says, you know, "Get him back here. Get him back here as
22 soon as possible," and he actually does come back, and he's
23 been advised by me that, if he were to be released and leave
24 this time with all of those conditions imposed, not only
25 would his parents be subjected to the Government going after

1 them for whatever it be -- 25,000, 50,000, 100,000 -- that he
2 would also face an additional charge on top of the 846, 841
3 that he's now facing, and I don't know any court that would
4 impose that as a -- not -- an additional amount of exposure
5 that would be imposed on top of whatever happens on the
6 846, 841(a).

7 So we have different circumstances and, Your Honor,
8 you know, I don't know -- you know, actions speak louder than
9 words. Here he is. We self-surrendered. I let them know he
10 was coming. For him to -- for the suggestion that he's
11 coming, to then turn around and leave, what's the point of
12 that?

13 So I'm hoping Your Honor, that with all of the
14 resources and conditions available to the Court there are the
15 least restrictive of conditions that may be imposed by the
16 Court to address the question of flight risk, because I don't
17 think that danger to the community given the opportunities
18 available for him and the support and the intervention now
19 ready to go on his behalf, I would suggest that, I guess, the
20 question for the Court is more about flight risk than it is
21 danger to the community, I think, but --

22 THE COURT: All right. Thank you.

23 MR. BUSTAMANTE: I'm happy to answer any questions
24 the Court may have.

25 THE COURT: I don't have any further questions at

1 this moment.

2 Having heard the statements and arguments of
3 counsel, the Court remains deeply concerned regarding the
4 risk of flight. We have an individual who has no ties to the
5 Central District of California, has no employment in the
6 Central District of California, has had no presence in the
7 Central District of California, and was present in Guatemala
8 for the past seven months. It would be different if the
9 Court were imposing conditions on an individual who was to
10 appear here in the Central District. However -- and this is
11 an out-of-district matter, where he must appear in the
12 District of Maryland and has a previous failure to appear
13 here.

14 In this presumption case, while the Court is
15 mindful that under the current circumstances Mr. Wall has
16 cooperated with his counsel to self-surrender and return to
17 the United States, nevertheless, he has yet to appear in the
18 charging jurisdiction, and the Court finds that the defendant
19 has not rebutted by sufficient evidence to the contrary the
20 presumption in this case regarding the risk of flight.

21 While the risk of danger is more -- danger to any
22 person or the community is largely predicated on the
23 seriousness of the charges in the case, and those charges are
24 yet unproven, the Court also remains concerned -- has a
25 concern for danger to any person or the community in the

1 interim of -- between the Central District of California,
2 where he has no ties, to the charging District of Maryland
3 because of his substance abuse. I believe Pretrial Services
4 indicated that he had last used ketamine, a very serious
5 drug, just days before his arrest.

6 Therefore, the Court is going --

7 THE DEFENDANT: That's not --

8 THE COURT: -- the Court is going to enter an order
9 of detention in this matter as follows:

10 On a motion of the Government in a case allegedly
11 involving narcotics or controlled-substance offense with a
12 maximum sentence of ten or more years, on a motion by the
13 Government in a case allegedly involving a serious risk that
14 the defendant will flee, the Government is in this case
15 entitled to a rebuttable presumption that no condition or
16 combination of conditions will reasonably assure the
17 defendant's appearance as required and the ability of any
18 person -- and the safety of any person or the community.

19 The Court finds that no condition or combination of
20 conditions will reasonably assure the appearance of the
21 defendants as required and/or the safety of any person or the
22 community, and the Court finds, as I indicated, that the
23 defendant has not rebutted by sufficient evidence to the
24 contrary the presumption that is provided by statute in this
25 case.

1 In making that determination, the Court has
2 considered the nature and circumstances of the offense
3 charged; the weight of the evidence against the defendant,
4 although that's the least weighty factor, those charges are
5 yet unproven; the history and characteristics of the
6 defendant; and the nature and seriousness of the danger to
7 any person or to the community.

8 The Court has also considered all of the evidence
9 adduced at the hearing today and the arguments and statements
10 of counsel, as well as the Pretrial Services Reports that
11 were prepared in this case and its recommendation.

12 The Court bases the foregoing findings on the
13 following:

14 The history and characteristics of the defendant
15 indicate a serious risk that the defendant will flee because
16 the risk of flight is presumed in this case.

17 The defendant is unemployed with little or no ties
18 to this district.

19 The defendant's criminal record reflects prior
20 failure -- a prior failure to appear, and insufficient bail
21 resources have been proffered to mitigate the risk of flight.

22 The defendant also poses a risk to the safety of
23 other persons or the community because of a history of drug
24 use and the serious -- the nature and seriousness of the
25 allegations in this presumption case.

1 Therefore, it is ordered that the defendant be
2 detained prior to trial.

3 It's further ordered that the defendant be
4 committed to custody of the Attorney General for confinement
5 in a corrections facility separate, to the extent
6 practicable, from persons awaiting or serving sentences or
7 being held in custody pending appeal.

8 It's further ordered that the defendant be afforded
9 reasonable opportunity for private consultation with his
10 counsel.

11 And it is further ordered that on an order of a
12 court of the United States or on a request of any attorney
13 for the Government the person in charge of the corrections
14 facility in which the defendant is confined shall deliver the
15 defendant to a United States marshal for the purpose of an
16 appearance in connection with a court proceeding.

17 Mr. -- that is the Court's order of detention.

18 Mr. Bustamante, would you also like the Court to
19 order a transfer forthwith to the charging District of
20 Maryland?

21 MR. BUSTAMANTE: That's exactly what I was just
22 going to ask, Your Honor --

23 THE COURT: Okay.

24 MR. BUSTAMANTE: -- and I appreciate the Court
25 bringing that to the attention of the record, and I would ask

1 that that be ordered.

2 THE COURT: The Court will so order that the
3 defendant be transferred forthwith to the charging
4 District of Maryland, and that way his travel arrangements
5 will all be sorted.

6 Now, of course, Mr. Bustamante, this order of
7 detention is subject to review. You may seek review of that
8 order upon his arrival with the charging district in Maryland
9 should they determine that they're circumstances are such
10 that they would be willing to consider a bond, but that is
11 the determination of this Court.

12 Mr. Wall, I do believe you wish to address the
13 Court, but, however, I want to caution you that I would
14 really encourage you to speak to Mr. Bustamante. I wouldn't
15 want you to say anything in court. You have a right to
16 remain silent. I don't want you to say anything in the court
17 that would in any way jeopardize your defense in this matter
18 before you address the Court in any way.

19 Mr. Bustamante, do you have a secure line where you
20 could speak to your client if there's something he wants you
21 to bring to the Court's attention?

22 MR. BUSTAMANTE: I do have a secure line but I --
23 just hearing the snippet of what he was about to say, I
24 anticipate that it might have been a correction about --

25 THE COURT: From the Pretrial --

1 MR. BUSTAMANTE: -- the last time that he had used
2 ketamine, and in the greater scheme of things, I just want to
3 let the Court know that I recognize, and I'm letting client,
4 Mr. Wall, know, that that detail, whether correct or
5 incorrect in terms of whether it was a couple days or a week,
6 is of no great consequence in terms of what the Court has
7 ordered. So I'm hoping that my client, as I instructed him
8 previously, has nothing further to add.

9 THE COURT: All right. Thank you, Mr. Bustamante,
10 for that clarification. I appreciate that.

11 All right. Anything further on this matter on
12 detention today?

13 MR. FOWLER: Not from the Government, Your Honor.

14 THE COURT: All right. Anything --

15 MR. BUSTAMANTE: No, Your Honor, and -- no,
16 Your Honor. Thank you for the Court's consideration.

17 THE COURT: My pleasure.

18 I just want to make sure we have put on the record
19 that Mr. Wall -- I -- do we have a consent to appear
20 telephonically? I want to make sure we have it. I have his
21 Advisement of Statement of Rights, the waiver --

22 MR. BUSTAMANTE: We had previously, Your Honor --
23 when we had our last hearing last week, we provided the Court
24 with a consent for --

25 THE COURT: Okay.

1 MR. BUSTAMANTE: -- videoconferencing. I'm not
2 sure if the Court wants another one for today's appearance or
3 that covers both.

4 THE COURT: It has a form where you -- on that form
5 it allows you to consent to detention hearings and further
6 proceedings; so we don't have to have a separate one. I just
7 don't happen to see it in the file this afternoon. Is it on
8 the docket?

9 MR. BUSTAMANTE: We can resend it to your clerk,
10 Your Honor, if you'd like.

11 THE COURT: Okay. Mr. Bustamante, no need to
12 resend another -- our courtroom deputy has confirmed that it
13 is on the docket, which is what matters. So we have it, and
14 it is signed.

15 MR. BUSTAMANTE: Thank you.

16 THE COURT: All right. Thank you very much,
17 Mr. Fowler, Mr. Bustamante.

18 And good afternoon and good luck to you, Mr. Wall.

19 MR. BUSTAMANTE: Thank you, Your Honor.

20 MR. FOWLER: Thank you, Your Honor.

21 THE CLERK: Court is adjourned.

22 (Proceedings adjourned at 1:27 p.m.)

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CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Julie Messa
Julie Messa, CET**D-403
Transcriber

July 12, 2020
Date